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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 24th May, 2021

No. 13/1/9383-HII(2)-2021/5473.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR (PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 22/2017, dated 22.04.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PRESIDENT/GENERAL SECRETARY, CHANDIGARH GOVT. TRANSPORT WORKER'S UNION (REGD.), CHANDIGARH, C/O SHRI D.R. KAAITH, CHAMBER NO. 104, DISTRICT COURT, SECTOR 43, UNION TERRITORY, CHANDIGARH (Workers' Union)

AND

DIVISIONAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, CHANDIGARH (Management).

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9383-HII(2)-2017/6643, dated 20.07.2017.

AWARD

1. Below mentioned Reference bearing Endorsement No.13/1/9383-HII(2)-2017/6643, dated 20.07.2017 received from the Secretary Labour, Chandigarh Administration is being disposed of :—

"Whether the demand raised in the demand notice dated 17.06.2015 by President/General Secretary, Chandigarh Govt. Transport Worker's Union (Regd.) Chandigarh, C/o Shri D.R.Kaaith, Chamber No.104, District Court, Sector 43, Union Territory Chandigarh And The Divisional Manager, Chandigarh Transport Undertaking, Chandigarh, are genuine and justified. If so, to what effect and to what relief the Union / Workers are entitled to, if any ?"

2. The President/ General Secretary, Chandigarh Govt. Transport Worker's Union (*hereinafter* "workers' union") had served demand notice dated 17.06.2015 in respect of Shri Gurmeet Singh (*hereinafter* called "workman") upon the Divisional Manager, Chandigarh Transport Undertaking, Chandigarh (*hereinafter* called "management") under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter* called "ID Act"). Upon notice, the workers' union appeared through its representative. Statement of claim was filed. Case of the workers' union in brief is that the workman was charge sheeted as per charge

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sheet dated 03.07.2012 on false allegations. The workman replied to the charge sheet but without appreciating the reply of the workman, the Inquiry Officer was appointed. The Inquiry Officer did not conduct the inquiry in fair & proper manner and without taking into consideration the defence of the workman submitted the inquiry report against the workman. During the inquiry the workman was wrongly proceeded *ex parte*. The workman again made a representation against the inquiry report but the punishing authority without appreciating the same passed an order of punishment dated 09.09.2014 / 03.11.2014 whereby his pay was reduced to minimum time scale for five years having effect of postponement of future increment and further pay of suspension was also denied. Against the order of punishment dated 09.02.2014 / 03.11.2014, the workman filed an appeal but the appellate authority without considering the merit of the case dismissed the appeal by non-speaking order on 13.10.2017. Order of punishment dated 09.02.2014 / 03.11.2014 and order on appeal dated 10.10.2017 are illegal, arbitrary and against the rules and deserves to be set aside on the ground that the checking staff did not conduct the checking as per rules. Neither complete note was given on the way bill nor the ticket numbers were closed after checking the bus. The tickets of each passenger were not checked and no statements of the passengers alleged to be found without tickets was recorded nor cash of the workman was checked. The witnesses have admitted that the bus was overloaded so they could not check the cash nor could close the sold tickets and tickets of each passenger were also not checked. The Inquiry Officer as well as punishing authority failed to note that there is no detail of alleged fraud on the way bill which was mandatory as per rules and instruction issued by the department from time to time. Further the General Manager who is alleged to be present on the spot have given the press statement to the newspaper that the checking staff have deducted the fraud of issuing old tickets to the passenger worth ₹1,140/- by the workman and he had suspended the workman for that fraud but subsequently the workman is being charge sheeted on 03.07.2012 on the allegations that the workman after collecting fare had not issued tickets to the passengers. Action of the management is discriminatory and biased one as in similar facts & circumstances for violation of checking instruction, which the workman is alleging, one Shri Bhupinder Singh - Conductor No. 360 was exonerated. The Inquiry Officer had not given any findings and had not discussed the evidence on record except criticizing the conduct of the workman. The workman was wrongly proceeded *ex parte*. Order of punishment is illegal being non-speaking in nature. The punishing authority had not given any findings for its conclusion and defence of the workman was not considered at all. There is no evidence on record in support of the charges to prove that the workman had charged money from the passengers and had not issued the tickets to them. The charge sheet as well as reports against the workman are illegal and are in violation of the instructions issued by the department from time to time regarding following the procedure by the Inspecting Staff in order to avoid false reports against the conductors. The Inquiry Officer as well as punishing authority gave their findings on the basis admission of the workman which is false. The workman never admitted his fault. Un-punched tickets were taken from the workman without his consent. Ultimately, it is prayed that order of punishment dated 09.09.2014 / 03.11.2014 and order of the appellate authority dated 13.10.2017 be set aside and entire monetary benefits be released to the workman.

3. The management contested the case of the workers' union and filed written statement that on 30.04.2012 the workman was on duty with bus No.CH-01-G-8859 enroute No.53. The said bus was checked by the checking staff at Derabassi. During the course of checking 40 passengers were travelling without tickets in the bus out of which 20 passengers were travelling from Chandigarh to Ambala Cantt. and paid ₹840/- at the rate ₹42/- each and 20 passenger were travelling from Zirakpur to Lalru Mandi and had paid ₹300/- at the rate ₹15/- each total ₹1,140/- as fare to the conductor-workman but he did not issue tickets to them. The workman admitted his fault in presence of the passengers and gave un-punched tickets of ₹1,140/- to the checking staff and also put his signature on the way bill note. The charge sheet was issued vide Memo No.5888 dated 03.07.2012 but the workman failed to submitted his reply to the charge sheet. The Inquiry Officer conducted the inquiry in a proper & fair manner. Notices were duly served upon the workman during the inquiry proceedings and the workman appeared before the Inquiry Officer through co-worker and the statement of prosecution witnesses were recorded who were also cross-examined and thereafter full opportunity of defence was also afforded to the workman and he submitted his defence statement before the Inquiry Officer and the Inquiry Officer after considering all the facts, documents and evidence submitted

inquiry report wherein the charges leveled against the workman stood proved. A copy of findings of the inquiry was supplied to the workman with the directions to submit the representation. The workman submitted his reply which was considered by the competent authority. He was heard in person and was given opportunity with regard to say something by way of his explanation. The competent authority, in view of the facts & circumstances of the case and in exercise of the powers conferred under Punjab Civil Services (Punishment & Appeal) Rules, 1970, ordered to minimum time scale for a period of five years and further ordered that the workman will not earn increment of pay during the period of reduction and that on expiry of this period, the reduction will have the postponing effect on his future increments of pay and his under suspension period with effect from 01.05.2012 to 07.10.2012 was limited to grant of subsistence allowance only. Order dated 09.09.2014 / 03.11.2014 has been passed by the competent authority after affording due opportunity to the workman to defend his case and the same is legal, just and sustainable in the eyes of law. The case of Shri Bhupinder Singh - Conductor No.360 is not relevant with the case as the facts of both the cases are entirely different. Shri Bhupinder Singh - Conductor No.360 was charge sheeted for misappropriation of ₹380/- whereby a departmental inquiry was ordered to be conducted but the Inquiry Officer gave his findings on the charge sheet whereby the charges stood not proved against him. Non-recording and non-checking of the cash of the Conductor/workman would not fatal to the case when the workman had admitted his fault by way of giving unpunched tickets to the checking staff. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :

1. Whether the demand raised in the demand notice dated 17.06.2015 by the workers' union is genuine & justified, if so, to what effect and to what relief the workers' union / workman are entitled to, if any ? OPW
2. Relief.

5. In support of the case, the workers' union examined the workman as AW1. Learned representative for the worker's union closed the evidence. On the other hand, learned Law Officer for the management tendered into evidence inquiry file, defence statement & inquiry report and closed the evidence.

6. I have heard learned representative for the workers' union and learned Law Officer for the management and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

Issue No. 1:

7. In support of the case, learned representative for the workers' union examined the workman as AW1, who deposed that he was charge sheeted as per charge sheet dated 03.07.2012 on false allegations, which was replied but without appreciating the same, the Inquiry Officer was appointed. The Inquiry Officer did not conduct the inquiry in fair & proper manner and without taking into consideration his defence submitted inquiry report against himself. During the inquiry he was wrongly proceeded *ex parte*. He made representation against the inquiry report but the punishing authority without appreciating the same passed an order of punishment dated 09.09.2014 / 03.11.2014 whereby his pay was reduced to minimum time scale for five years having effect of postponement of future increment and further pay of suspension period was also denied. Against the punishment order he filed an appeal but the appellate authority without considering the merit of the case dismissed the appeal by non-speaking order on 13.10.2017. He further deposed that the checking staff did not conduct the checking as per rules. Neither complete note was given on the way bill nor tickets numbers were closed after checking the bus. Tickets of each passengers were not checked and no statement of the passengers alleged to be found without tickets was recorded nor cash of himself was checked. Witnesses have admitted that bus was overloaded so they could not check the cash nor could close the sold tickets and tickets of each passenger were not checked. He also deposed that the Inquiry Officer as well as punishing authority failed to note that there is no detail of alleged fraud on the way bill which was mandatory as per rules & instructions

issued by the department from time to time. Further the General Manager, who is alleged to be present on the spot have given the press statement to the newspaper that the checking staff have deducted the fraud of issuing old tickets to the passengers worth ₹1,140/- and he had suspended the deponent for that fraud but subsequently himself was being charge sheeted on the allegations that after collecting fare he had not issued tickets to the passengers. Copy of newspaper is Exhibit 'W1'. He further deposed that action of the management is discriminatory and biased as in similar facts & circumstances for violation of checking instruction, which himself is alleging, one Shri Bhupinder Singh - C.No.360 was exonerated. The Inquiry Officer had not given any findings and had not discussed the evidence on record except criticizing the conduct of himself. He also deposed that the union had raised demand against illegal implications of conductors in false cases and in response to same the department had issued instructions dated 13.12.2007, 03.06.1999 & 03.03.1987 to the effect that while checking buses Inspectors must record the statements of passengers, who are found without tickets and also to check the cash of the Conductor and tickets issued to each passenger be also checked. Copy of instructions are Mark 'A' to 'C'. He further deposed that the Inquiry Officer as well as punishing authority gave their findings on the basis of admission of himself but he never admitted his fault. Un-punched tickets were taken from himself without his consent. Before start of checking un-punched tickets as well as way bill were taken from himself by the Inspectors and before handing over the same to himself the Inspectors took away un-punched tickets and made a false report. He further deposed that order of appellate authority is illegal being non-speaking. The appellate authority to decide the appeal on merits, though ground for condonation given, but the appellate authority failed to consider the same. Copy of ground of appeal is Exhibit 'W2'.

8. Learned representative for the workers' union has argued that there is violation of procedure of checking. Report on the way bill was not complete, no statement of passengers recorded and further the bus was overloaded at the time of checking which is admitted by the inspectors. Further regarding the same incident of alleged fraud there was different statements with two different versions from the same source i.e. in charge sheet and press note. He has placed reliance on newspaper dated 12.05.2014 Exhibit 'W1'. It is further argued that it is alleged that old tickets were found in possession of the conductor at time of checking but in charge sheet non-issuance of tickets to the passengers after collecting fare is alleged. Un-punched tickets were not enclosed with the reports. It is further argued that there is defect in inquiry proceedings. Two defence witnesses were examined but evidence of only one defence witness is discussed by the Inquiry Officer. The written defence evidence was not considered by the Inquiry Officer and documents not placed on record, which was necessary. It is also argued that there is defect in order of punishing authority so order is non-speaking. The workman submitted representation against the findings of the Inquiry Officer but the punishing authority had not considered the same. Learned representative for the worker's union has placed reliance on citation ***Bishnu Prasad Versus Union of India, 1991(3) SCT 496 (Calcutta); Naresh Chand Verma Versus National Hydroelectric Power Corporation Limited & Others, 2008(2) SCT 456 (HP) and A.P.S.R.T.C., Rep. by Depot Manager Versus G Murali, 2017(4) SCT 538.*** He prayed for setting aside punishment order and order passed by the appellate authority and for release of consequential benefits thereof.

9. On the other hand, learned Law Officer for the management tendered into evidence inquiry file Exhibit 'MW1' & Exhibit 'MW1/A', defence statement of Shri Davinder Singh - Driver No.415 and inquiry report and argued that the workman was duty with bus No.CH-01-G-8859 on enroute No.53 and during checking 40 passenger were travelling without tickets in the bus out of which 20 passengers were travelling from Chandigarh to Ambala Cantt. had paid ₹840 at the rate ₹42/- each and 20 passengers were travelling from Zirakpur to Lalru Mandi had ₹300/- at the rate ₹15/- each totally ₹1,140/- as fare to the conductor-workman but the workman did not issue tickets to him. The workman had admitted his fault in the presence of the passengers. The charge sheet was issued but the workman failed to file reply. Accordingly the Inquiry Officer conducted inquiry in a fair & proper manner. For non-recording and non-checking the cash of the workman would not fatal to the case so this issue be decided against the workman. He prayed for dismissal of the reference.

10. After giving my careful consideration to the rival contentions of the parties, I find that admittedly the workman Gurmeet Singh - Conductor No.C-762 was on duty with bus No.CH-01-G-8859 enroute No.53. It is also not disputed that the bus was checked by the checking staff at Derabassi. Thereafter the workman was charge sheet as per charge sheet dated 03.07.2012. As per averment of learned representative for the workers' union, the workman filed reply to the charge sheet but without appreciating the reply the Inquiry Officer was appointed. But as per record the charge sheet was issued to the workman. He has not submitted reply to the charge sheet following which regular inquiry was marked to the Inquiry Officer and the Inquiry Officer conducted the inquiry.

11. Contention of learned representative for the workers' union that two defence witnesses were examined but only one defence witness was discussed. This argument does not inspire confidence as per the inquiry report, defence statement of Shri Davinder Singh - Driver No.415 and defence statement of Shri Dalvir Singh, S/o Shri Surmukh Singh, R/o Village Chadila, Tehsil Derabassi, District Mohali was discussed. So the contention of learned representative for the workers' union that defence statement of the witness Shri Dalvir Singh was not discussed by the Inquiry Officer does not held good as the Inquiry Officer had discussed about the statement of both the witnesses.

12. Other arguments addressed by learned representative for the workers' union that there is violation of procedure of checking. This arguments also does not held good as during the cross-examination of the Inspector has clarified that due to over rash of passengers and interference of the passengers the number of sold tickets could not be closed on the way bill as passengers tried to dispose off the matter within quick time as they were in hurry so due to inference of the passengers they could not close the number of tickets on the way bill. Even the defence witness of the workman authenticated the statement of Inspectors during the inquiry. The relevant portion of the statement of the witness of Shri Devinder Singh - Driver No.415 is as under :—

".....At that time of checking some of the passengers made objections with regard to checking that at that time of night it should not be checked and some dispute was also made between checking staff & passengers which took about 25 to 30 minutes."

Moreover, the second defence witness i.e. Sh. Dalvir Singh who was traveling in the said bus on that day also authenticate that during the process of checking the passengers of the bus made objection of long process of checking as it was taking a long period and thereafter 8-10 minutes the checking staff allowed the bus to go further. So it is admitted fact that the bus was overloaded at the time of checking but it does not mean the workman is free for not issuing tickets to the passengers.

13. Learned representative for the workers' union has argued that un-punched tickets are not enclosed with the report is also baseless as the un-punched tickets were enclosed with the report by the Inspector which fact is proved from page 1 of Exhibit 'MW1/A' inquiry file.

14. Another argument of learned representative for the workers' union is that his defence statement is not considered by the Inquiry Officer. The same also totally baseless as defence statement of the delinquent official was discussed by the Inquiry Officer in his inquiry report. So citations referred by the worker's union does not applicable while deciding the case reference rather reliance is placed on citation ***Union of India Versus Parma Nanda, AIR 1989 SC 1185*** wherein Hon'ble Supreme Court of India as held as under:-

"19.the Tribunal has no powers to interfere with the punishment imposed by the disciplinary authority on the ground that it is disproportionate to & proved misdemeanor. He also urged that if the enquiry held against the delinquent officer was proper with the findings supported by evidence then the Tribunal cannot substitute its own judgment to modify the punishment awarded. Mr. Ashri, learned counsel for the respondent, however, justified the discretion exercised by the Tribunal in awarding the lesser punishment. We do not think that we would accept so bold a submission made for the respondent, nor can it be

sustained by other consideration. Indeed, the contention for the respondent is unsustainable in view of the decisions of this Court."

15. In the light of discussion made above, it is held that a fair & proper inquiry has been conducted by the management wherein the workman was found guilty of charges for embezzlement of ₹1,140/- from the Government revenue by not issuing the tickets to the passengers after collecting the fare from them. Thereafter the punishing authority after affording full & fair opportunity to the workman passed the punishment order dated 09.09.2014 whereby reduced the pay of the workman to minimum of time scale for a period of five years and further ordered that he will not earn any increment during the period of reduction and on expiry of this period, the reduction will have postponing effect on his increment of pay and his suspension period is limited to grant of subsistence allowance only. As such the demand raised by the workers' union in the demand notice dated 17.06.2015 is not genuine & justified. Accordingly, this issue is decided against the workers' union and in favour of the management.

Relief :

16. In the light of findings on the issue above, this reference is declined and answered against the workers' union. Appropriate Government be informed. File be consigned to the record room.

Dated : 22.04.2021.

(Sd.) . . . ,
(ANSHUL BERRY),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 24th May, 2021

No. 13/1/9782-HII(2)-2021/5479.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 87/2018, dated 20.04.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

RAJESH KUMAR, S/O SHRI RADHEY SHYAM, HOUSE NO. 2081-A, EWS COMPLEX, DHANAS, CHANDIGARH (Workman).

AND

1. EXECUTIVE ENGINEER, WATER SUPPLY DIVISION NO.5, CHANDIGARH HOUSING BOARD, SECTOR 9, CHANDIGARH
2. LOVELY ENTERPRISES THROUGH ITS PROPRIETOR SHRI SAMPURAN SINGH, HOUSE NO. 183, MILK COLONY DHANAS, CHANDIGARH (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

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<https://egazette.chd.gov.in>*

2. Case of the workman in brief is that he joined the management No.1 in July 2014 as Tubewell Operator through the then contractor Shri Mukesh, who left the contractorship on 23.10.2014 and thereafter Shri Kapil Zerath joined as new contractor and the workman continued to be employed with management No.2. With effect from 11.05.2015 Shri Kapil Zerath also left the contractorship and one Shri Sampuran Singh joined as new contractor but the workman still remained employed with management No.2 and the wages were directed to be paid through Shri Sampuran Singh new contractor. The management used to pay ₹ 5,000/- per month to the workman through the above contractor management No.2. Though the contractors changed from time to time but the workman continued to work with management with effect from July 2014. There was no deduction of provident fund & ESI from the management through the contractor. The workman requested for payment of the salary as per DC rates fixed by the administration but on some pretext or other he was not paid wages as per DC rates. On 14.12.2015 when the workman finally requested the management and management No.2 for DC rates wages instead of accepting the demand of the workman, the management verbally refused work to the workman saying that his services were no longer required and from 14.12.2015 the services of the workman were terminated. The management while terminating the services of the workman did not comply with the mandatory provisions of Section 25-F of the ID Act. He had remained in continuous employment of the management from July 2014 to 14.12.2015 and completed more than 240 days of service immediately prior to his termination. The management also employed fresh hands and also retained juniors to the workman in service. The management has also violated the mandatory provisions of Section 25-G & 25-H of the ID Act. The management had also not paid the wages of the workman for the month of November 2014 and for 14 days of December 2015. Ultimately, it is prayed that the workman be reinstated in service with full back wages.

3. Upon notice, management No. 1 appeared through its representative. Thereafter none appeared on behalf of management No.1 so management No.1 was proceeded against *ex parte*.

4. None has appeared on behalf of management No.2 despite service as such management No.2 was proceeded against *ex parte*.

5. In *ex parte* evidence, the workman stepped into the witness box as AW1. During the pendency of the present industrial dispute, the workman made the following statement:-

"I withdraw my present case IDR No.87/2018 with liberty to file fresh one, if so advised."

In view of the above statement, the present industrial dispute is disposed off being not pressed with liberty to file fresh one. Appropriate Government be informed. File be consigned to the record room.

Dated : 20.04.2021.

(Sd.) . . . ,
(ANSHUL BERRY),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095

CHANGE OF NAME

I, Rajender Kumar, S/o Raghuvir Singh, # 2337, Vikas Nagar Mauli Jagran, Chandigarh, have changed my name to Rajinder Pal.

[274—1]

I, Moti Lal, S/o Satyawan , R/o House No. 2084, Pipli Wala Town Manimajra, Chandigarh, have changed my name to Mohit.

[275—1]

I, Anu Gupta, W/o Shyam Bihari Gupta, # 3850/1, Sector 47-D, Chandigarh, have changed my name to Anuradha Gupta.

[276—1]

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